

Significant Legislative Rule Analysis
Proposed Repeal of WAC 246-922-100
Proposed amendments to WAC 246-922-030 and -040
Rules Concerning Podiatric Physicians and Surgeons
May 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

WAC 246-922-100 currently provides a list of tasks that may be delegated by a podiatric physician to unlicensed personnel. Engrossed Substitute Senate Bill (ESSB) 6237 was passed in 2012 creating a scope of practice for credentialed medical assistants working in Washington State. ESSB 6237 was codified into chapter 18.360 RCW.

This proposal will repeal all of WAC 246-922-100. The Podiatric Medical Board (board) proposes repealing this section because many of the tasks listed in the section are now in the statutorily defined scope of practice of a medical assistant. This proposed repeal is needed in order to remove any ambiguity as to whether or not personnel working in podiatric offices who provide clinical care are required to obtain and maintain a credential.

The proposal also amends WAC 246-922-030 to replace outdated language regarding accepted schools of podiatric medicine. The current rule lists seven schools that are approved by the board. These schools are accredited by the Council on Podiatric Medical Education (CPME), and there are currently nine schools accredited by the CPME. The CPME is also named as the entity that the board uses to determine approval for schools of podiatric medicine under RCW 18.22.010(5). Rather than provide a list of schools in rule, which can change when a new school is approved, or a when a school's name changes, the board is proposing to clarify that the board approves those schools accredited by the CPME.

Finally, the proposal amends WAC 246-922-040 to clarify current licensure exam requirements. The current rule references an examination administered by the Washington State Podiatric Medical Board. The rule also provides specifics regarding when the exam will be administered, when the applications for the exam are due, and what will constitute a passing score. This exam is no longer offered. This exam has not been offered since the American Podiatric Medical Licensing Examination (APLME) added part III to their exam. This section of the exam covers topics and concepts that were addressed by the state examination previously administered by the board. The proposed rule makes clerical edits, removes language referring to the state administered examination, and requires passage of all sections of the APLME, including part III, in lieu of the state administered examination.

Is a Significant Analysis required for this rule?

Yes, as defined in RCW 34.05.328, the proposed rules require a significant analysis.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The rule implements general goals and specific objectives of the authorizing statute. The goal of the podiatric physician chapter of statute is to protect the public by ensuring that podiatric physicians licensed in Washington State are properly qualified for licensure and provide quality care to patients. Repealing WAC 246-922-100 will remove ambiguity and confusion that may currently exist regarding whether assistive personnel who provide clinical care and work under the delegation and supervision of a podiatric physician are required to hold a credential. Furthermore, clarifying current exam requirements and updating the approved schools section ensures that applicants will meet current credentialing standards before receiving a license to practice podiatric medicine.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The board analyzed the medical assistant law (specifically RCW 18.360.050 -- authorized duties) and WAC 246-922-100 and recognized that clinical tasks included in the WAC are similar to those listed under the authorized duties section of statute. The board then consulted with their Assistant Attorney General who advised the board to repeal the section that authorized unlicensed personal to perform certain duties because the medical assistant statute now requires those who perform those tasks to obtain a credential.

No alternative to repealing the rule is feasible. If the rule is not repealed, those not familiar with the medical assistant statute may be confused as to whether assistive personnel who provide clinical services to podiatric patients may continue to work without a credential. This could increase the potential for unlicensed practice and aiding and abetting unlicensed practice complaints and discipline against podiatric physicians and their assistive personnel.

As previously stated, it is necessary to amend rules related to approved schools of podiatric medicine and the licensing exam requirements so that applicants have clear and current direction regarding the board's licensing requirements. If the rule changes are not made, confusion will exist as to what competencies the board requires prior to licensure. In order to make these amendments enforceable, it is necessary to put them in rule.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

This rules package contains changes that affect three sections of the chapter. These changes are significant and the cost/benefits of the changes are analyzed below.

I. WAC 246-922-030 Approved schools of podiatric medicine

Description of the proposed rule: The current rule lists seven schools of podiatric medicine that the board approves that meet the training requirements for licensure. This list of schools is out of date; two schools have changed their name and two schools have since been accredited by the CPME, the organization that the podiatric physician and surgeon statute refers to under their

definition of approved schools of podiatric medicine and surgery. The proposal states that schools accredited by the CPME meet the board's training requirements.

Cost/benefit analysis: These changes are necessary so that applicants for licensure have clear direction regarding the board's training requirements. The CPME is an autonomous accrediting agency for podiatric medical education that derives its authority from the House of Delegates of the American Podiatric Medical Association. The CPME is the national authority for the colleges of podiatric medicine. The current rule reflects the colleges that were accredited at the time the rule was adopted. Since then, two schools have been accredited by the CPME. There are no costs associated with this amendment as it is updating the rule to accurately reflect which schools are accepted. The benefit of the rule is that it will provide clear and current direction as to which schools satisfy the board's training requirements.

II. WAC 246-922-040 Examinations

Description of the proposed rule: The current rule requires applicants to pass a state administered exam as a condition of licensure. This exam is no longer offered as the board determined several years ago that part III of the APLME exam was substantially equivalent to the state exam. The proposal deletes the language referring to the state exam and states that applicants must pass all parts, including part III, of the APLME exam administered by the National Board of Podiatric Medical Examiners.

Cost/benefit analysis: Making this amendment reflects in rule current credentialing practices. As previously stated, the state exam is no longer offered. When the state exam was offered, applicants were required to take the exam at Department of Health offices, and the exam was only offered twice a year. Part III of the APLME is offered several times throughout the year and is available at multiple locations.

III. WAC 246-922-100

Description of the proposed rule: The board is proposing to repeal this section which lists tasks that may be performed by unlicensed personnel who work under the supervision of podiatric physicians.

Cost/benefit analysis: There are about 300 podiatric physicians who hold active Washington State licenses. Assuming that each licensed podiatric physician employs one or two clinical assistants who will need to now obtain the medical assistant-registered credential, the number of new credentialed personnel working for podiatric physicians will be around 450. The application and renewal fee for the medical assistant-registered credential is \$90. The board proposes that the patient safety benefit of having clinical care performed by credentialed personnel, whose credentials are subject to oversight and discipline, outweigh the costs borne by requiring these personnel to obtain and maintain the credential.

Removing confusion as to whether assistive personnel who work for podiatric physicians need a credential ensures that the assistant and podiatric physician will not be at risk of aiding and abetting of practice without the proper credential.

The board worked in consultation with the Attorney General's Office to analyze the probable benefits and probable costs to repealing this section of rule. As a result, the board determined that the benefits of the rule outweigh the probable costs. This repeal will help remove ambiguity as to whether or not personnel working in podiatric offices who provide clinical care are required

to obtain and maintain a credential. Repealing the rule removes a section of administrative code that conflicts with statute.

Cost/benefit Summary

While there will be monetary costs associated with complying with the medical assistant law by means of applying for and maintaining a credential, these fees may be paid by assistive personnel and not necessarily the supervising podiatric physician.

Also, amendments made to the sections for examinations and approved schools are being proposed to reflect current standards. The state exam is no longer administered and the APLME is administered through Prometric so several exam sites are available to candidates. The update to the schools further aligns the rule with language in statute, and replacing the list of schools with reference to the CPME will ensure that the rule is still relevant when any future accreditation activities or name changes take place. Therefore, the total probable benefits of the rule amendments exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The board considered keeping WAC 246-922-100 in their chapter to allow unlicensed personnel to continue providing services without a credential. However, after consultation with their Assistant Attorney General, the board agreed to move to repeal the section to avoid conflicting with statute. No alternatives were considered to the amendments of the sections related to exam requirements and approved schools as these changes are necessary to reflect current standards.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The proposed rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The proposed rule does not impose more stringent performance requirements on private entities than on public entities.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The proposed rule does not differ from any federal regulation or statute applicable to the same activity or subject matter. The intent of repealing WAC 246-922-100 is to remove any existing confusion regarding whether assistive personnel working under a podiatric physician who perform clinical tasks included in the medical assistant scope of practice needs to obtain a credential as a medical assistant.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

The proposed rule is coordinated to the maximum extent practicable with other applicable laws, including current podiatric physician law under chapter 18.22 RCW and medical assistant law under chapter 18.360 RCW.